IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc 37008-M of 2007

Date of decision: 9.8.2007

Manjit Singh @ Jitti …Petitioner

Versus

State of Punjab …Respondent

Present: Mr SS Majithia, Advocate for the petitioner.
Mr IPS Sidhu, Sr DAG Punjab.
Mr Vineet Sharma, Advocate for the complainant.

S.S.SARON, J.

Heard counsel for the parties.

The petitioner seeks regular bail in a case registered against him for the offence under Section 304 IPC.

The FIR in the case has been registered on the statement of Naveen Kumar. It is alleged by the complainant that his father – Ashok Kumar had money dealings with the petitioner. About 4-5 days earlier to 24.4.2007 i.e. the date of lodging the FIR, the father of the complainant and the complainant himself went to the house of the petitioner. They told him to either give them crop (wheat) or to return their money. The petitioner replied that he was neither going to return the money nor would he give them wheat crop. Besides, if the petitioner and his father again visited his house, he would eliminate them. On 24.4.2007, the complainant and his father and Uncle – Ashwani Kumar was standing on the road in front of their shop that the petitioner carrying wheat crop in his tractor came there. The father of the complainant stopped the petitioner at their shop and asked for the return of the

money. The petitioner with the intention to kill Ashok Kumar – the father of the complainant, tried to run over the tractor on his father. The side of the trolley hit the father of the complainant and he fell on the road and due to fall on the road, his father sustained serious injury and blood started oozing out. On hearing noise, Joginder Singh came at the spot and the petitioner ran away. While they were taking the injured to the hospital, he succumbed to his injuries.

Learned counsel for the petitioner has submitted that it is a case of pure accident and unnecessarily a case is being made out of deliberate causing of the injuries. It is submitted that a petty misunderstanding regarding previous dealings cannot be the cause of death of Ashok Kumar – the father of the complainant. It is submitted that on the day of the occurrence, the accident occurred when the complainant and his father – Ashok Kumr ran towards the tractor trolley of the petitioner. The complainant climbed the tractor trolley and started trying to stop the petitioner from taking the tractor ahead and there a quarrel started. In the meantime, Ashok Kumar (deceased) also tried to climb the trolley from the back side but he fell down and his head hit the road on account of which he succumbed to his injuries.

In response, learned counsel for the State and the complainant have opposed the application. It is submitted that the petitioner is not entitled to the concession of bail as he had caused injuries on the person of Ashok Kumar (deceased). Learned counsel for the complainant has further submitted that charge is liable to be framed against the petitioner for the offence under Section 302 IPC for which proceedings are pending before the learned trial Court. Therefore, it is submitted that the petition is liable to be dismissed.

After giving my thoughtful consideration to the matter, it may be noticed that the FIR has been registered for the offence under Section 304 IPC.

The question whether the petitioner is liable to be charged for the offence under Section 302 IPC or not is to be gone into and considered by the trial Court at the appropriate stage. In case an alternative charge under Section 302 IPC is framed that would be a separate matter. For the present as has already been noticed, the petitioner is being proceeded against for the offence under Section 304 IPC. The trial in the case is likely to take time. Besides, the role of the petitioner which resulted in the death of Ashok Kumar is to be considered and gone into after trial.

For the fore going reasons, the petitioner, on his furnishing personal bond and surety to the satisfaction of CJM Amritsar, shall be admitted to bail.

9.8.2007 (S.S.SARON)
ASR JUDGE